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**ROBINS & PASTERNAK LLP**

1731 Embarcadero Road, Suite 230

Palo Alto, CA 94303

Telephone: 650-493-3400

Facsimile: 650-493-3440

**OFFICIAL**

Date: August 23, 2004  
To: Examiner J. Foreman  
USPTO, Art Unit 3736  
Facsimile No. 1-703-872-9306  
From: Danna S. Pasternak  
Re: USSN 09/882,363 (Atty Dkt. 6750-0007/SU98-U01.US2)  
Message: Please see attached.

**TO BE MADE OF OFFICIAL RECORD**

Total number of pages, including this cover sheet: 3

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AUG 23 2004

Atty Docket No.: 6750-0007  
USSN: 09/882,363  
SU98-U01.US2  
PATENT**CERTIFICATE OF FAX TRANSMISSION PURSUANT TO 37 CFR § 1.8**I hereby certify that this correspondence is being faxed to (103)872-9806 on August 23, 2004.8/23/04  
DateMichelle Hobson  
Signature**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re the Application of  
ALEXANDER et al.

Serial No.: 09/882,363

Filed: June 15, 2001

Title: **ASSESSING THE CONDITION OF A JOINT  
AND PREVENTING DAMAGE**

Examiner: J. Foreman

Art Unit: 3736

Confirmation No.: 6739

Customer No.: 36806

**COMMUNICATION**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants submit that the paper labeled "Prior Art Submission" submitted by an anonymous third party on August 13, 2004 in the above-referenced case is improper and should be destroyed.

The submission does not comply with the submission of references in pending applications, as set forth in 37 C.F.R. § 1.99. First, the submission is not made within two months of publication of the application, as required by 37 C.F.R. § 1.99(e). Furthermore, the references of the submission were previously submitted by Applicants in Information Disclosure Statements and have already been considered by the Office. Moreover, 37 C.F.R. § 1.99(d) makes it plain that a third-party submission "shall not include any explanation of the patents of publications, or any other information." Thus, the submission is not proper because it was not timely filed, is redundant and improperly characterizes both the references and Applicants'

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PATENT

arguments.

The remedy for an improper submission of references in a pending application is also clearly set forth in 37 C.F.R. § 1.99(d). The Office is to "dispose of any such explanation or information if included..." Therefore, the third-party submission of prior art made August 13, 2004 is improper and should be destroyed by the Office.

Should the Examiner have any further questions, Applicants request that the undersigned be contacted at (650) 493-3400.

Respectfully submitted,

Date: August 23, 2004

By: 

Dalma S. Pasternak  
Registration No. 41,411  
Attorney for Applicants

ROBINS & PASTERNAK LLP  
1731 Embarcadero Road  
Suite 230  
Palo Alto, CA 94306  
Telephone: (650) 493-3400  
Facsimile: (650) 493-3440